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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,038	03/13/2001	Minoru Saito	1405.1037	8843

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,038

Applicant(s)

SAITO ET AL.

Examiner

Mike Tomaszewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the application filed on 05 December 2005. Claims 1-7 remain pending. Claims 1 and 2 have been amended. Claims 6 and 7 are newly added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Brinkman et al. (6,697,783; hereinafter Brinkman).

(A) As per claim 7, Brinkman discloses a method of providing health-care information, comprising:

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- (1) selecting appropriate referee medical institutions based on said patient examination information (Brinkman: abstract; col. 11, lines 1-18 and lines 47-56);
- (2) accepting patient examination information (Brinkman: abstract; col. 10, lines 11-62; Fig. 7); and
- (3) accepting information from a referrer medical institution as a patient referral source (Brinkman: abstract; col. 11, lines 39-col. 12, line 19; Fig. 7 and 21a-b).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman in view of Tsai (6,038,566; hereinafter Tsai) as applied in the prior Office Action, and further in view of Sato et al. (5,911,687; hereinafter Sato) and Joao (6,283,761; hereinafter Joao).

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(A) Claim 1 has been amended to recite a health-care information system comprising the following additional elements:

- (1) electronic patient chart preparation means for preparing electronic patient charts based on patient information accepted by said patient information acceptance means; and
- (2) wherein said electronic patient charts are also prepared or updated at said referee medical institutions based on said referral information from said referrer medical institutions.

As per these elements, Brinkman discloses a health-care information system comprising:

- (1) electronic patient chart preparation means for preparing electronic patient charts based on patient information accepted by said patient information acceptance means (Brinkman: col. 11, lines 57-67; col. 12, lines 1-3; fig. 14-23).

Brinkman, however, fails to expressly disclose a health-care information system comprising:

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- (2) wherein said electronic patient charts are also prepared or updated at said referee medical institutions based on said referral information from said referrer medical institutions.

Nevertheless, this feature is old and well known in the art, as evidenced by Joao and Sato. In particular, Joao and Sato disclose a health-care information system comprising:

- (2) wherein said electronic patient charts (Joao: abstract; col. 4, lines 26-40; col. 12, line 21-col. 15, line 5; col. 6, lines 5-37; col. 18, lines 21-44; col. 20, lines 21-27; fig. 1) are also prepared or updated at said referee medical institutions based on said referral information from said referrer medical institutions (Sato: abstract; col. 5, lines 33-58; fig. 1-21).

Examiner notes that Joao teaches a comprehensive healthcare information system and method encompassing a plethora of embodiments involving, *inter alia*, virtually all healthcare-related participants, services, processes, products and information (Joao: abstract; col. 4, lines 26-40; col. 6, lines 5-37; col. 12, line 21-col. 15, line 5; fig. 1).

For example, Joao teaches a system and method which incorporates information from any combination and/or all of the participants (e.g., referees, referrers, providers, intermediaries, payers, patients, users, hospitals, physicians, *etc.*) in the healthcare

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field. Joao further teaches an extensive communication network between the various healthcare-related participants whereby information (e.g., referral information, hospital information, patient examination information, *etc.*) can be transmitted multi-directionally to the various healthcare-related participants. Joao still further teaches that any healthcare-related participant may utilize the present invention in the same, similar and/or analogous manner (e.g., a primary hospital, secondary hospital, physician, intermediary, *et alia*, can be designated as the referrer medical institution, *etc.*). Moreover, Joao teaches that the system and method can be utilized by any healthcare-related participant (e.g., referrer hospital, *etc.*) in order to find and/or locate any other healthcare-related participant (e.g., referee hospital) for various healthcare-related purposes (e.g., patient treatment, *etc.*).

As such, Examiner respectfully submits that the teachings of Brinkman, Tsai, Joao and Sato, *in toto*, render all permutations relating to which particular entity is, *inter alia*, accepting, receiving, and/or sending the referral information obvious.

One of ordinary skill in the art would have found it obvious at the time of the invention to include the teachings of Joao with the combined teachings of Brinkman, Tsai and Sato with the motivation of facilitating the creation, management, quality, efficiency and effectiveness of healthcare services (Joao: col. 2, lines 38-54).

Moreover, one of ordinary skill in the art would have found it obvious at the time of the invention to include the teachings of Sato with the combined teachings of Brinkman, Joao and Tsai with the motivation of providing a means for selecting an appropriate physician based on patient needs (Sato: abstract).

(B) Claims 2-5 are rejected for the same reasons given in the previous Office Action.

6. Newly added claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman, in view of Joao and Sato.

(A) As per claim 6, Brinkman discloses a method of providing health-care information, comprising:

- (1) storing hospital information on referee medical institutions (Brinkman: col. 4, lines 27-35; col. 6, lines 63-67); and
- (2) accepting patient information from a referrer medical institution as a patient referral source (Brinkman: col. 4, lines 27-35; col. 6, lines 63-67).

Brinkman, fails to expressly disclose a method of providing health-care information, comprising:

- (3) selecting appropriate referee medical institutions based on said patient information;
- (4) presenting hospital information associated with the selected referee medical institutions to said referrer medical institution;

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- (5) accepting decisions on referee medical institutions from said referrer medical institution;
- (6) creating patient referral information based on said patient information; and
- (7) sending said patient referral information to the referee medical institutions.

Nevertheless, these features are old and well known in the art, as evidenced by Joao and Sato. In particular, Joao and Sato disclose a method of providing health-care information, comprising:

- (3) selecting appropriate referee medical institutions based on said patient information (Sato: abstract; col. 5, lines 33-58; fig. 1-21);
- (4) presenting hospital information associated with the selected referee medical institutions to said referrer medical institution (Sato: abstract; col. 5, lines 33-58; fig. 1-21);
- (5) accepting decisions on referee medical institutions from said referrer medical institution (Sato: abstract; col. 5, lines 33-58; fig. 1-21);
- (6) creating patient referral information based on said patient information (Sato: abstract; col. 5, lines 33-58; fig. 1-21); and
- (7) sending said patient referral information to the referee medical institutions (Joao: abstract; col. 4, lines 26-40; col. 6, lines 5-37; col. 12, line 21-col. 15, line 5; fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to include the teachings of Joao with the combined teachings of Brinkman and Sato with the motivation of facilitating the creation, management, quality, efficiency and effectiveness of healthcare services (Joao: col. 2, lines 38-54).

Moreover, one of ordinary skill in the art would have found it obvious at the time of the invention to include the teachings of Sato with the combined teachings of Brinkman and Joao with the motivation of providing a means of selecting an appropriate physician based on patient needs (Sato: abstract).

Response to Arguments

7. Applicant's arguments filed 05 December 2005 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 05 December 2005.

(A) On page 9 of the 05 December 2005 response Applicant argues that Joao does not teach, disclose, or suggest, "accepting patient information from referrer medical institutions as patient referral sources." Examiner, however, respectfully disagrees and submits that the collective teachings of Brinkman, Tsai, Joao and Sato do indeed disclose the Applicant's recited limitations.

As Examiner noted in section 3.(A), *supra*, Joao teaches a comprehensive healthcare information system and method encompassing a plethora of embodiments

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involving, *inter alia*, virtually all healthcare-related participants, services, processes, products and information (Joao: abstract; col. 4, lines 26-40; col. 6, lines 5-37; col. 12, line 21-col. 15, line 5; fig. 1).

More specifically, Joao teaches a system and method which incorporates information from any combination and/or all of the participants (e.g., referees, referrers, providers, intermediaries, payers, patients, users, hospitals, physicians, *etc.*) in the healthcare field. Joao further teaches an extensive communication network between the various healthcare-related participants whereby information (e.g., referral information, hospital information, patient examination information, *etc.*) can be transmitted multi-directionally to the various healthcare-related participants. Joao still further teaches that any healthcare-related participant may utilize the present invention in the same, similar and/or analogous manner (e.g., a primary hospital, secondary hospital, physician, intermediary, *et alia*, can be designated as the referrer medical institution, *etc.*). Moreover, Joao teaches that the system and method can be utilized by any healthcare-related participant (e.g., referrer hospital, *etc.*) in order to find and/or locate any other healthcare-related participant (e.g., referee hospital) for various healthcare-related purposes (e.g., patient treatment, *etc.*).

As such, Examiner respectfully submits that the teachings of Brinkman, Tsai, Joao and Sato, *in toto*, render all permutations relating to which particular entity is, *inter alia*, accepting, receiving, and/or sending the referral information obvious.

(B) Applicant's remaining arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art pertain to referral services and teach a medical facility and business: automatic interactive dynamic real-time management (5,748,907); a computerized medical diagnostic and treatment advice system including network access (6,206,829); a patient care system (4,835,372); providing comprehensive online health-related information and services (US 2004/0215491); a method, apparatus and system for providing targeted information in relation to laboratory and other medical services (US 2002/0007285); a system and method for conducting a physician-patient consultation (6,850,889); delivery of medical services using electronic data communications (5,619,991); and a health care management system for comparing user-proposed and recommended resources required for treatment (5,953,704).

The cited but not applied prior art also includes non-patent literature articles by Greg Beaubien ("Dialing for Doctors Referral Services Help Consumers but Raise Ethics Questions" May 1, 1994. Chicago Sun Times. pg. 51.) and Anonymous ("Prelude Offers Marketing I/S Outsourcing" Jun 1993. Computers in Healthcare. Vol. 14, Iss. 6. pg. 42.).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

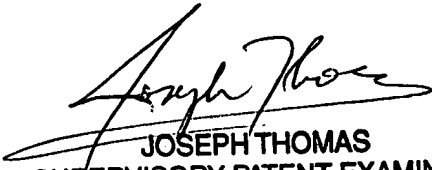
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER